

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

**In re RANDY W., a Person Coming Under
the Juvenile Court Law.**

THE PEOPLE,

A146295

Plaintiff and Respondent,

**(Contra Costa County
Super. Ct. No. J1400432)**

v.

RANDY W.,

Defendant and Appellant.

_____ /

In 2013, Randy W. (the minor) admitted an allegation of grand theft from a person (Pen. Code, § 487, subd. (c)), a felony at that time.¹ In connection with his admission, the minor was required to submit a DNA sample to the state databank. The juvenile court declared the minor a ward of the court (Welf. & Inst. Code, § 602) and placed him on probation.

After the electorate passed Proposition 47, which reduced certain crimes — including theft of property valued at less than \$950 — to misdemeanors, the minor petitioned to have his violation reduced to a misdemeanor, and to have his DNA record

¹ Unless noted, all further statutory references are to the Penal Code.

expunged from the state databank. The juvenile court reduced the minor's violation to a misdemeanor but denied his DNA expungement request.

The minor appeals. We requested supplemental briefing on our colleagues' recent opinion on this issue, *In re J.C.* (2016) 246 Cal.App.4th 1462 (*J.C.*) (petn. for review pending, petn. filed June 6, 2016). Having considered that supplemental briefing, we adopt the reasoning from *J.C.* and reach the same result: we affirm the juvenile court's denial of the minor's DNA expungement request.

FACTUAL AND PROCEDURAL BACKGROUND

In December 2013, the minor admitted an allegation of grand theft from a person (§ 487, subd. (c)), a felony at that time. In connection with the admission, the minor was required to submit a DNA sample to the state databank (§ 296). The juvenile court declared the minor a ward of the court (Welf. & Inst. Code, § 602) and placed him on probation in his mother's home.

In November 2014, the voters enacted Proposition 47, which made certain theft related offenses, including theft of property under \$950, misdemeanors, and created a procedure for individuals previously convicted of felonies now considered misdemeanors to have those convictions reduced to misdemeanors. (See *People v. Rivera* (2015) 233 Cal.App.4th 1085, 1091.) In July 2015, the minor filed a petition to redesignate his felony grand theft violation to misdemeanor petty theft pursuant to Proposition 47. (§§ 490.2, 1170.18.) The petition also requested the court reduce the minor's maximum term of confinement and expunge his "DNA database profile and remove his sample" from the state databank.

In July 2015, the juvenile court redesignated the minor's felony adjudication and reduced his maximum term of confinement. The court, however, denied the minor's request for DNA expungement. Adopting its reasoning from *In re S.B.-W.* (Super. Ct. Contra Costa County, 2015, No. J13-01068), the court concluded Proposition 47 did not require expungement of the minor's DNA.²

² The parties in this matter agreed to be bound by the court's ruling in *In re S.B.-W.*

The minor timely appealed. A few weeks later, in October 2015, the Governor signed Assembly Bill No. 1492 (2015-2016 Reg. Sess. (Bill No. 1942 or bill)) amending section 299, which governs expungement of DNA records. The bill inserted a reference to section 1170.18 into a list of statutes that do *not* authorize a judge to relieve a person of the duty to provide a DNA sample. After the parties completed briefing, our colleagues in Division One affirmed the juvenile court’s denial of an identical DNA expungement request. (*J.C.*, *supra*, 246 Cal.App.4th at p. 1467.) We requested and received supplemental briefing on *J.C.*

DISCUSSION

The minor contends the court erred by failing to expunge his DNA from the state databank after reclassifying his felony adjudication to a misdemeanor pursuant to Proposition 47. Relying on *Alejandro N. v. Superior Court* (2015) 238 Cal.App.4th 1209 (*Alejandro N.*), the minor claims the court was required to grant his DNA expungement request, and that Bill No. 1492 does not preclude DNA expungement.

The *J.C.* court considered and rejected these arguments. In a thorough and well-reasoned opinion, the *J.C.* court explained Proposition 47, DNA collection, and Bill No. 1492. (*J.C.*, *supra*, 246 Cal.App.4th at pp. 1469-1472.) The court held Bill No. 1492 “prohibit[s] the expungement of a defendant’s DNA record when his or her felony offense is reduced to a misdemeanor pursuant to section 1170.18.” (*Id.* at p. 1475.) *J.C.* also held “[b]ecause Bill No. 1492 clarifies, rather than changes, the meaning of the relevant provisions of Proposition 47, the bill precludes the granting of requests for expungement made prior to its enactment.” (*Id.* at pp. 1467-1468.) Finally, the court declined to address the validity of *Alejandro N.* because “Bill No. 1492 requires the denial of the minor’s request for expungement.” (*Id.* at p. 1469.)

The minor’s supplemental briefing has not persuaded us *J.C.* was wrongly decided. As a result, we adopt *J.C.*’s reasoning and conclude the juvenile court properly denied the minor’s DNA expungement request after reducing his felony violation to a misdemeanor pursuant to Proposition 47.

DISPOSITION

The judgment is affirmed.

Jones, P.J.

We concur:

Simons, J.

Bruiniers, J.